Before the
Federal Communications Commission
Washington D.C. 20554

In the Matter of	)	
	)	
Telecommunications Services	)	
For Individuals with Hearing and Speech	)	CC Docket No. 03-123
Disabilities, and the Americans with	)	
Disabilities Act	)	
	)	

REPLY COMMENTS OF HEALINC TELECOM, LLC ON PAYMENT FORMULA AND FUND SIZE ESTIMATE INTERSTATE TRS FUND FOR JULY 2007 THROUGH JUNE 2008

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Healinc Telecom, LLC

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Before the
Federal Communications Commission
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In the Matter of Telecommunications Services For Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act	)))))))	CC Docket No. 03-123

REPLY COMMENTS OF
HEALINC TELECOM, LLC

Healinc Telecom, LLC ("Healinc"), hereby submits reply comments in response to the National Exchange Carriers Association's ("NECA") proposed video relay service ("VRS") provider payment formula and compensation rate submitted to the Federal Communications Commission ("Commission") on May 1, 2007.[1] Healinc specifically supports CSDVRS, LLC's ("CSDVRS") "Variable Tiered Multi-Year Rate Methodology," as a well-reasoned approach to establishing a fair, just, and equitable VRS compensation rate for an emerging competitive VRS market, consistent with the Commission's pro-competitive policies.

Healinc represents a new competitive VRS market entrant, whose entry was made possible by the Commission's December 12, 2005 *Report and*

[1] *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate (filed May 1, 2007).

Order and Order on Reconsideration.[2] Through its *Report and Order*, the Commission, for the first time, enabled new competitive VRS providers to apply directly to the Commission for eligibility to draw from the federal Telecommunications Relay Service fund, opening the door to competitive VRS market entry, heretofore effectively unavailable to new market entrants. In supporting such competitive entry, the Commission clearly recognized the imperative of new competition in the VRS market, stressing that

> this *Order* will enhance competition in the provision of VRS and IP Relay by permitting new entities to offer service, thereby ***giving consumers greater choice***. In addition, ***we anticipate that new providers will bring innovation to the provision of VRS and IP Relay, both with new equipment and new service features***. Finally, and more broadly, because VRS requires broadband Internet service, new VRS providers may stimulate greater broadband deployment.[3]

Competitive VRS provider market entry enabled by the *Report and Order*, and represented by new market entrants such as Healinc, presents new opportunities for reconsideration of the VRS regulatory *status quo,* consistent with supporting nascent VRS market competition and the Commission's pro-competitive policies. Development of 2007 – 2008 VRS rating methodology, now before the Commission, falls squarely into this realm.

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[2] *See, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Order on Reconsideration,* CG Docket No. 03-123, FCC 05-203 (rel. December 12, 2005) ["*Report and Order*"].

[3] *See, Report and Order and Order on* Reconsideration, at ¶21, citing to 2004 *TRS Report & Order*, 19 FCC Rcd at 12568, para. 243 (as the Commission "embarks on a broader initiative to stimulate the deployment of broadband services, ... VRS can improve existing services for persons with disabilities and can be a demand driver for broadband connections") [emphasis supplied]. *Also See, generally,* In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order, CG 03-123, FCC 06-57 (May 9, 2006).

CSDVRS has proposed an alternative "Variable Tiered Multi-Year Rate Methodology" that would compensate VRS providers equally, in proportion to established call volumes.[4] Under CSDVRS, more "efficient" providers would be subject to a lower level of compensation than would less efficient providers, including emerging new competitive providers, subject to a three-year review.[5] According to CSDVRS, such an approach,

- fairly and reasonably compensates each provider based on that provider's volume;
- provides for a savings in the size of the VRS funding requirement for the 2007-08 fund year;
- provides consistency for providers over a period of three years, after which the FCC and NECA can re-evaluate the sliding scale rate and thresholds;. and
- eliminates the need for the FCC and NECA to annually engage in a protracted processes to calculate the VRS rate.[6]

Healinc believes that such an approach is ideally suited for a competitive environment and will, as CSDVRS notes, promote enhanced delivery functionally equivalent VRS and provide for continued innovation that would allow consumers to receive the benefits of technological advances.

The proposed NECA rate methodology represents a *status quo* approach for determining a compensation rate that remains focused on tweaking historical and projected costs and demand data, weighted by the

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[4] *Comments of CSDVRS, LLC On Payment Formula and Fund Size Estimate Interstate TRS Fund for July 2007 Through June 2008*, CG Docket No. 03-123, (May 16, 2007) at 9 ["*CSD Comments*"].

[5] Healinc considers "efficiency," in the context of CSDVRS's proposal to be synonymous with economy of scale, rather than a provider's ability to streamline operations. Healinc maintains that any provider whose operations remain inefficient in an operational sense, *e.g.* poorly managed, will ultimately be unable to provide service under a fixed level of compensation because of its high cost of inefficient operations.

[6] CSD Comments, Summary.

lowest cost provider's market share.[7] Such an approach has arguably been reasonably effective in a relatively static, pre-competitive environment. Yet this approach has also has contributed to challenges, and imperfect calculations that approximate cost, with only limited consideration of operational differences among providers.[8] Further, constant changes in compensation methodology have contributed to a high degree of financial uncertainty for providers, now further exacerbated by the impact of new competitive entrants' cost structures. Such uncertainty has far reaching impacts for providers including a significant disincentive for investment, contrary to the Commission's expressed intent for VRS market competition. The "Variable Tiered Multi-Year Rate Methodology" more closely factors in the increasingly crucial operational differences between providers in an emerging competitive market, while providing a degree of certainty for a three year.

At first blush, the "Variable Tiered Multi-Year Rate Methodology" may appear counter-intuitive, because such an approach could be interpreted to reward less "efficient" providers with higher compensation rates, if "efficient" is understood to pertain exclusively to *operational* efficiency. Certainly, in a meaningfully competitive environment, rewarding operational efficiency is a key tenet of competition. Yet the "Variable Tiered Multi-Year Rate Methodology" addresses economies of scale that have accrued to the

[7] CSD Comments at 7.
[8] *Id.* at 11.

dominant provider in a pre-competitive VRS market that today remains far from being a meaningfully competitive. The dominant provider's singular market position has created efficiencies, *e.g.* economies of scale, that no other provider can reasonable achieve. Perpetuation of the current equal compensation methodology continues to unfairly reward the dominant provider's economies of scale, while limiting new competitive providers' incentives for further innovation, outreach, and the ability to increase the effectiveness of its operations. The *status quo* virtually seals the fate of competitors to remain in the shadows of the dominant provider without hope of providing the meaningful competition that the Commission has endeavored to promote.

The advent of VRS market competition made possible through the recent *Report and Order* now militates in favor of a new compensation paradigm that more readily incorporates elements of an emerging competitive VRS market, maintains equitable compensation for all providers, and offers certainty that will promote investment and innovation, more fully consistent with the Commission's pro-competitive policies. Healinc maintains that the "Variable Tiered Multi-Year Rate Methodology" represents such an effective compensation methodology for a new competitive era in the VRS market, and urges its adoption by the Commission.

Respectfully submitted this 23rd day of May, 2007,

By: /s/ Stanley F. Schoenbach

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